

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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|--|---|-------------------|
| JANE DOE,                              | : |                   |
| Plaintiff,                             | : |                   |
|  | : |                   |
| v.                                     | : | No. 5:23-cv-01561 |
|  | : |                   |
| ALEJANDRO MAYORKAS, <i>SECRETARY</i>   | : |                   |
| <i>OF THE UNITED STATES DEPARTMENT</i> | : |                   |
| <i>OF HOMELAND SECURITY, et al.</i>    | : |                   |
| Defendants.                            | : |                   |

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**ORDER**

**AND NOW**, this 1<sup>st</sup> day of May, 2023, upon consideration of Plaintiff Jane Doe's Application to Proceed in District Court Without Prepaying Fees or Costs, it appearing that Plaintiff Jane Doe is unable to pre-pay the filing fees and costs, and for the reasons set forth in the Opinion issued this date, **IT IS ORDERED THAT:**

1. The Application to Proceed in District Court Without Prepaying Fees or Costs, ECF No. 2, is **GRANTED**.
2. Count III (Mandamus Act) is **DISMISSED with prejudice** for failure to state a claim.<sup>1</sup>
3. The Clerk of Court shall issue summonses.

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<sup>1</sup> Although some courts have dismissed similar claims for lack of subject-matter jurisdiction, this Court finds that Count III should be dismissed, instead, for failure to state a claim. *See Sawan v. Chertoff*, 589 F. Supp. 2d 817, 822-25 (S.D. Tex. 2008) (discussing whether the Mandamus Act claim should be dismissed for lack of subject-matter jurisdiction or for failure to state a claim and determining that because the "Mandamus Act gives federal district courts 'original jurisdiction,'" it was more appropriately dismissed for failure to state a claim where the plaintiff had a remedy under the Administrative Procedures Act).

4. The United States Marshal for the Eastern District of Pennsylvania shall serve the summonses and Complaint in accordance with Federal Rule of Civil Procedure 4(i)(2) at no cost to Plaintiff.

5. The Clerk of Court shall serve the United States Attorney for the Eastern District of Pennsylvania.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.  
JOSEPH F. LEESON, JR.  
United States District Judge